THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.25540 OF 2005

DATED:8.12.2005

Between:

Smt. Akhtar Fatima

…Petitioner

And

The Joint Collector,

Ranga Reddy District,

177-Khairatabad, Hyderabad and others

…Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.25540 OF 2005

ORDER:

The petitioner filed the instant Writ Petition challenging the proceedings of the first respondent dt.5.3.2005 rejecting the petitioner's revision petition under Section 9 of the A.P.Rights in Land and Pattadar Pass Books Act, 1971 (for short, the Act), as illegal, arbitrary and opposed to principles of natural justice.

In brief, the case of the petitioner is as follows. The petitioner and others claim to be owners of lands in S.Nos.1 to 65 admeasuring Acs.567 in Fathullaguda Village, Uppal Mandal in Ranga Reddy District. By reason of a munthakab statement of inam sarfekaz, these lands are described as vacant waste land without any irrigation. It appears, the petitioner obtained certified copies of sethwar of Fathullaguda Village

in 1988 showing Mohd. Murad as pattadar, who is son of Yasin Begum in whose favour the Deputy Collector had issued a munthakab. However, the recent sethwar of the village, which was obtained by the petitioner do not show the name of the persons belonging to Yasin Begum, and respondents 4 to 95 clandestinely interpolated sethwar of the village by showing their names as owners of the land. The petitioner also alleges that the sethwar was created allegedly at the behest of fourth respondent who became jagirdar by grabbing Acs.234. The pahanies for the year 1996 would show that respondents 4 to 95 are enjoying the land by illegally incorporating their names in the revenue records. Therefore, after obtaining necessary certified copies, the petitioner and others filed revision petition before the first respondent under Section 9 of the Act praying to restore possession to the petitioner and others to the land in all survey numbers referred to hereinabove. The first respondent rejected the revision petition, assailing which present Writ Petition is filed.

Learned counsel for the petitioner, Sri V.Rajagopal Reddy, submits that when the petitioner filed revision petition, first respondent ordered notice to respondents 4 to 95. As the notice could not be served, first respondent directed the petitioner to publish notice in the newspapers which was done. In spite of the same, none appeared, but first respondent without conducting any enquiry rejected the petitioner's case only on the ground that petitioner's application is belated by forty nine (49) years. The petitioner therefore would urge that the first respondent grossly erred in not exercising the jurisdiction vested in it and that in the absence of any limitation of exercise of such power, first respondent ought to have exercised power under Section 9 of the Act in favour of the petitioner.

There is no denial by the petitioner that the original sethwar was prepared in the year 1954 allegedly showing the name of Yasin Begum as pattadar by reason of purchase as well as munthakab granted by the then Deputy Collector. The petitioner filed revision petition in 2001. The first respondent considered the effect of delay of forty nine (49) years in filing revision petition in the light of the law laid down by the Supreme Court in **State of Gujarat v. Patel Raghav Natha,** and **Jai Mangal v. Mira Naik**, and came to the conclusion that the explanation offered by the petitioner is vague and unacceptable. The first respondent also held that if the petitioner is aggrieved by the divesting of rights or vesting of rights in others, they can do so by filing a suit against any person denying title of the petitioner. The approach of the first respondent in disposing of the petitioner's belated revision petition, in the considered opinion of this Court, is unassailable. Further, even according to the petitioner, as seen from paragraph 13 of the affidavit accompanying the Writ Petition, she prayed the first respondent to restore possession to the petitioner in respect of the lands in all the survey numbers of Fatullaguda Village. In pith and substance, under the Act, the Legislature intended to streamline record of rights in respect of agricultural land and matters connected therewith. The Act does not specifically confer power on various authorities to restore possession to a person who is dispossessed. Such a relief can be obtained by seeking appropriate declaration as well as decree for possession under the Specific Relief At, 1963. This also is yet another reason for this Court to come to a conclusion that the impugned order does

not suffer from any vice and first respondent was correct in dismissing the revision petition. If so advised, it shall be open to the petitioner to avail common law remedy of filing suit for appropriate declaration and possession.

The Writ Petition is accordingly dismissed *in limine*.

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(V.V.S.RAO, J)

8.12.2005

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